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Mr. Chairman and members of the subcommittee, thank you for inviting me to testify today regarding safety and security at the Department of Energy's Los Alamos National Laboratory (LANL).

I am Director of the Office of Independent Oversight and Performance Assurance, which is responsible for evaluating environment, safety, and health; emergency management; cyber security; and safeguards and security programs. As you know, our office reports directly to the Secretary of Energy and has no responsibilities for managing DOE sites or for developing policy. As a result, we are able to perform independent assessments of the effectiveness of programs and provide unbiased information to the Secretary and DOE line managers.

My testimony today will focus on our independent perspectives on the safety and security aspects of the LANL stand-down. Our perspectives are based on our recent assessments, and in particular, reviews we performed in calendar year 2004 following the stand down. As I will discuss, an upcoming safety inspection and an upcoming security inspection are both scheduled for this Fall.

Safety Perspectives at LANL

Our most recent inspection of LANL's integrated safety management program was completed in April 2002. At that time, we concluded that LANL had made improvements in a number of areas, such as development of their integrated safety management program framework and documentation. However, we identified weaknesses in LANL's implementation of their processes in a number of important areas, including adequacy of procedures, procedure compliance, configuration management, and certain aspects of processes for analyzing hazards and establishing safety controls. In addition, we concluded that there

were weaknesses in the feedback and improvement systems of both DOE's Los Alamos Site Office and the contractor, in the important areas of assessments and issues management.

In accordance with our regular schedule, we had planned to perform an inspection of LANL in August-September 2004 to evaluate selected aspects of integrated safety management, including progress in correcting the deficiencies identified in the 2002 inspection. However, because of both security and safety concerns, site management declared the stand-down of most activities on July 16, 2004. Because virtually all site activities were shut down, we began to reevaluate the scope and timing for the planned inspection. Our inspections are performance based, which means that much of our inspection consists of observing work activities. We look at work activities to determine whether they are conducted safely and in compliance with applicable requirements and to gather performance based insights about the effectiveness of the site safety programs and procedures, which we also review so that we have a good understanding of how safety is intended to function and how it is actually implemented at the work activity level. Because virtually no work was being conducted we would not be able to observe work and thus our ability to evaluate safety performance would be limited.

At about the same time, the former Deputy Secretary of Energy, Kyle McSlarrow, asked us to temporarily step out of our normal role at Los Alamos. In doing so, he recognized the importance of resuming operations at Los Alamos as well as the importance of helping the site to more comprehensively identify and correct their problems. Based on the former Deputy Secretary's direction, it was decided to defer the planned inspection and instead perform an "Assistance Review," which was intended to help the Site Office – and by extension the laboratory contractor – to critically assess safety at LANL. Subsequently, we rescheduled the planned inspection for November-December 2005.

Our approach to the Assistance Review was to use our expertise to mentor and coach the Los Alamos Site Office (and, LANL) staff and to provide additional perspective and advice based on our broad expertise and technical depth in conducting critical assessments across the DOE complex. To this end, we applied Independent Oversight resources in coordination with Los Alamos Site Office priorities such that Independent Oversight personnel participated in all phases and elements of the LANL resumption process and in a wide variety of organizations, facilities, and activities. Our inspectors worked with Los Alamos Site Office and LANL personnel to help identify deficiencies with facility conditions, work processes and procedures, and institutional safety programs as well as advising them on assessment processes and prioritizing deficiencies and evaluating extent of condition. With this approach, Independent Oversight

team members gained a detailed understanding of specific aspects of the resumption process and, collectively, developed a comprehensive view of the overall resumption process. By integrating and analyzing the information from the individual team members, we were able to provide real-time feedback on the overall effectiveness of the process and to identify needed improvements in the interfaces and integration of the various elements. Our team also assisted the Los Alamos Site Office and LANL staff by providing techniques to strengthen management assessment processes to be more self-critical in evaluating management systems and processes for assuring safe operations.

We found that the resumption process was having a positive impact on improving safety performance by identifying a number of areas requiring LANL management attention and action and by raising safety awareness across the site. However, we also concluded that significant efforts remained to be completed that required management attention and priority at the highest levels of LANL, the National Nuclear Security Administration (NNSA), and the Los Alamos Site Office. In particular, we noted that sustained and continued attention would be needed to improve Site Office and Laboratory oversight and assessment processes, improve compliance with requirements and procedures, ensure that expectations are understood and implemented, improve implementation of the integrated work management process and to prevent recurrences of past problems.

At the conclusion of the Assistance Review, most LANL activities were undergoing validation and few had actually been approved for resumption. Since then, Independent Oversight personnel have monitored the progress at LANL and we understand that most activities have now been resumed. The upcoming safety inspection scheduled for September to November 2005 will evaluate the adequacy of actions taken by LANL to address safety deficiencies identified through the resumption process and the efforts by NNSA and the LANL site office in ensuring the effectiveness of LANL's efforts.

Security Perspectives at LANL

Turning now to our perspectives on security at LANL, our most recent comprehensive inspection was in December 2002. At that time, we noted improvements in a number of aspects of LANL security but also identified weaknesses in implementation of requirements in such areas as nuclear material accounting and unclassified cyber security, as well as weaknesses in line management oversight by the Los Alamos Site Office, which had a number of unfilled staff positions.

The problems with Classified Removable Electronic Media – which include disks and other removable storage media and are called CREM for short – surfaced in December 2003, when a LANL annual inventory revealed missing items. Personnel from the Office of Security and Safety Performance Assurance and NNSA performed a review within a few weeks and concluded that the most direct cause for the missing CREM was the failure of LANL staff to adhere to established procedures and failure of CREM users (such as scientists) to work with classified matter custodians. Subsequently, a number of other incidents involving CREM occurred at LANL, including the inability to account for a classified ZIP drive. Subsequent DOE and FBI investigations of certain incidents determined that classified information was not actually compromised but the incidents highlighted performance problems in accountability systems and compliance with requirements.

Incidents and concerns in other security topics at multiple DOE sites prompted my office to perform special reviews of protective force management; lock and key control; and security incident reporting at a number of sites, including LANL in 2004. While the April 2004 reviews did identify some overall improvements in protective force operations, the results also indicated the need for continued improvement in protective force response planning and response-related training. The reviews also highlighted some weaknesses in self-assessments, incident reporting, and implementation of lock and key control requirements.

Because of the number of CREM incidents, former Secretary Abraham took aggressive action in July 2004, including a memorandum directing a stand down of all Departmental classified operations involving accountable CREM. Senior DOE management required all sites to perform a 100 percent physical inventory and accounting of classified accountable CREM holdings and enhance protection through such measures as enhanced custodial controls and stricter requirements (e.g., procedures) for handling CREM. Because LANL experienced a number of incidents, it was required to implement a particularly stringent accounting protocol. For example, LANL was required to centralize their CREM holdings and perform daily CREM inventories. Senior management also imposed criteria for resuming CREM-related operations, which included training, performance testing and validation by a local validation team, and approval by the former Deputy Secretary.

Further, at the direction of the former Deputy Secretary, Independent Oversight completed independent validations of the implementation at critical facilities subsequent to restart, primarily in the late 2004 timeframe. These reviews were performed in coordination with the DOE Office of Security and included review of facility processes and performance.

Independent Oversight's initial post-start review of LANL was performed in October 2004. At that time, LANL had resumed CREM operations for eleven of their twenty newly established central CREM libraries. We identified significant improvements in protection of CREM but also identified a number of weaknesses in implementation of the requirements by LANL. In some cases, LANL policies and practices were not consistent with DOE requirements in such areas as chain of custody and CREM custodial storage.

Because of these concerns, we conducted a follow-up validation review in March 2005, at which time the remaining CREM libraries were operating. We found that further improvements had been made and most of the concerns from the October 2004 review had been adequately addressed. However, we continued to find weaknesses in some LANL facilities with respect to adequacy of documented procedures. We are also in discussions with NNSA regarding the rigor and formality of the NNSA approval of some specific exceptions to Departmental CREM policy.

An Independent Oversight comprehensive inspection of LANL security is scheduled for November-December 2005. During this inspection we plan to take a hard look at CREM implementation as well as other important aspects of the protection strategy, including the protection strategy for the major nuclear material facilities.

Conclusion

In closing, Independent Oversight believes that the attention focused on LANL has resulted in significant improvements, both in the safety and security arenas. However, the concerns are longstanding and efforts to change a site culture are difficult, as evidenced by the initial deficiencies in implementation of new DOE CREM requirements. While we believe that the recent DOE and NNSA actions have been aggressive and appropriate, continued management attention is warranted. Further improvements in LANL self-assessments and line management oversight by NNSA and its Los Alamos Site Office are essential to sustaining the momentum and preventing future events.

This concludes my prepared testimony. Thank you.